

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Robert E. Fischell *et al.*

Docket: S1-02

Serial No.: 10/072,177

Examiner: L. Di Nola-Baron

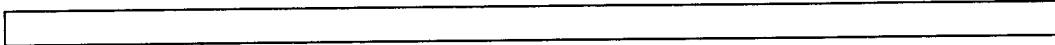
Filed: February 11, 2002

Art Unit: 1615

For: DEVICES AND METHODS FOR REDUCING SCAR TISSUE FORMATION

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(c) TO
OBVIATE OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION
OVER PRIOR U.S. PATENT No. 6,534,693 B2**

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450



Dear Sir or Madam:

I, the undersigned Robert E. Fischell, am a co-inventor of this invention, and am empowered to act on behalf of the Assignee.

The Assignee, Afmedica, Inc, 259 East Michigan Avenue, Suite 409, Kalamazoo, Michigan 49007, is the sole owner of one-hundred percent (100%) interest in the instant application. The assignments which were filed in the prior Application Serial No. 09/772,693 and issued as United States Patent No. 6,534,693 B2 (Our File No.: C1-01), to which the instant application claims priority as a Continuation-In-Part Application, was recorded in the Patent and Trademark Office at **Reel 013600, Frame 0313. (see attached Notice of Recordation)**

Petitioners' hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173 of U.S. Patent No. 6,534,693 B2, and hereby agree that any patent so granted on the above-identified instant application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with United States Patent No. 6,534,693 B2, this agreement to run with any patent granted on the above-identified instant application and to be binding upon the grantee, its successors or assigns.

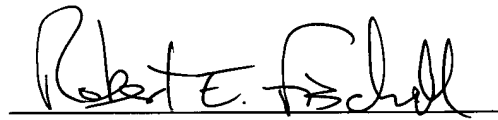
In making the above disclaimer, petitioners' do not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, in the event that, once issued, the patent corresponding to U. S. Patent No. 6,534,693 B2 should expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally

disclaimed under, has all claims cancelled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term.

Enclosed herewith is the fee **in the amount of \$55.00** set forth in 37 C.F.R. § 1.20(d) in accordance with 37 C.F.R. § 1.321(c).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: March 25, 2004

A handwritten signature in black ink, reading "Robert E. Fischell". The signature is written in a cursive style with a horizontal line underneath it.

Robert E. Fischell, Sc.D.
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